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February 16, 2005

ORIGINAL

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW – A325
Washington, D.C. 20554

Re: *Ex Parte* Communications *In the Matter of the Federal-State
Joint Board on Universal Service* CC Docket Nos. 96-45, 98-171,
90-571, 92-237, 99-200, 95-116, 98-170 and NSD File No. L-00-72

Dear Ms. Dortch:

This *ex parte* communication submitted on behalf of the Ad Hoc Telecommunications Users Committee ("Ad Hoc") responds to December 21, 2004 and January 31, 2005 written *ex parte* communications submitted, respectively, by the West Virginia Consumer Advocate ("WVCA") and the Keep USF Fair Coalition ("Coalition").¹ Neither submission addresses the fundamental problem underlying the current Universal Service Fund ("USF") contribution assessment methodology. Nor would either misguided proposal actually help residential consumers. Accordingly, the Commission should reject the proposals advanced in both *ex partes*.

Ad Hoc addresses the WVCA and the Coalition proposals sequentially.

The WVCA Proposal

WVCA urges the Commission to recover one half of the USF financial requirement through percentage assessments on providers' revenues and the other half through assessments on assigned telephone numbers and special access and private line equivalencies. WVCA calls its proposal the 50/50 Numbers Method.

WVCA's 50/50 method only delays the time when the Commission must address the instability inherent in a revenues-based assessment methodology. Interstate telecommunications revenues will continue to decline. The Commission must know, almost intuitively, that consumers who purchase wireless bucket of minutes plans have an incentive to use the minutes in their plans, instead of placing calls through wireline carriers. If they do not use the minutes the effective price per minute increases. Consequently, consumers

¹ Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), copies of this letter have been filed with the Office of the Secretary and the parties identified in the letter.

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substitute wireless usage for long distance calling, even when at home. The same is true for consumers who buy bundles of service from local exchange carriers and VoIP providers. (Exchange carriers have been most successful marketing bundles of services, such as Verizon's Freedom packages.) Enterprise customers have the same incentives as residential and small business customers to drive down their effective cost per minute. Moreover, enterprise customers are deploying IP-enabled PBXs and phones in growing numbers. About half of the PBXs that are now being shipped are IP-enabled PBXs.² With such equipment, enterprises simply run VoIP as another software application on their IP-enabled private networks for intra-corporate traffic. They incur no separate charges for the VoIP traffic that moves over their networks. Finally, rates for telecommunications services have not stabilized and are unlikely to stabilize. Those rates will continue to drop. In sum, interstate telecommunications revenues will continue to decline, and any revenue-based USF assessment factor will also keep climbing. The foregoing conditions obviously mean that the revenue-based assessment component in WVCA's proposal would steadily climb.

The obvious question is what would the WVCA plan accomplish? In discussing the impact of the 50/50 method on residential subscribers, WVCA states "there is still a shift in contribution responsibility from users of interstate long distance to local users. However, the impact on local users is very small and many residential customers would see an overall reduction in monthly contributions."³ The WVCA ignores the fact that residential customers, even the lowest use customers with the smallest bills, would pay *less* under a numbers-based system than under either the existing system or the 50/50 plan.

² <http://www.delloro.com/news/2005/ITel0112805.shtml>. A report found at the foregoing URL states, "While IP PBX shipments will overtake those of TDM in 2006, the conversion of the installed base from traditional TDM systems will take time. Currently more than 90 percent of the installed base is TDM and will still be the majority of the base out through 2009." Put differently, within five years at least 50% of installed PBXs will be IP-enabled.

³ *Ex Parte* Submission of WVCA in CC Dkt. No. 96-45, page 3 of attachment (filed Dec. 21, 2004) ("WVCA *Ex Parte*").

Table 1: A 100% numbers based assessment plan would require a lower residential contribution than the WVCA 50/50 plan: WVCA modeling assumptions – 2004.

Usage Scenario	2004 WVCA 100% Revenue Estimate	2004 WVCA 50/50 Estimate	2004 Numbers-based plan using WVCA Estimates
Scenario 1: Average	\$3.92	\$2.83	\$1.72
Scenario 2: Low Use	\$0.88	\$0.88	\$0.86
Scenario 3: High Use	\$7.31	\$4.52	\$1.72
Scenario 4: High Local	\$1.63	\$1.69	\$1.72

Source: WVCA estimates for 2004 taken from WVCA *Ex Parte*. 2004 numbers-based estimate based upon doubling the "numbers" column (to give numbers 100%) in the WVCA *Ex Parte*.

Table 2: A 100% numbers based assessment plan would require a lower residential contribution than the WVCA 50/50 plan: WVCA modeling assumptions – 2007.

Usage Scenario	2007 WVCA 100% Revenue Estimate	2007 WVCA 50/50 Estimate	2007 Numbers-based plan using WVCA Estimates
Scenario 1: Average	\$5.13	\$3.63	\$2.12
Scenario 2: Low Use	\$1.20	\$1.13	\$1.06
Scenario 3: High Use	\$9.53	\$5.83	\$2.12
Scenario 4: High Local	\$2.17	\$2.15	\$2.12

Source: WVCA estimates for 2004 taken from WVCA *Ex Parte*. 2004 numbers-based estimate based upon doubling the "numbers" column (to give numbers 100%) in the WVCA *Ex Parte*.

The modeling assumptions used in the WVCA *Ex Parte* are unrealistic in several respects. Using more realistic assumptions it becomes clear that the impact upon residential customers of the 50/50 plan is very similar to the impact upon residential consumers of a pure numbers-based approach, while retaining all of the infirmities of the existing numbers-based plan.

Table3: Unrealistic modeling assumptions used in WVCA Ex Parte.

	WVCA Estimate	Revised Estimate	Source for Revised Estimate
USF Factor	8.8%	10.7%	FCC 1Q 2005 factor
USF Fund Size	\$5.97-B	\$7.02-B	FCC 1Q 2005 estimated program demand
Avg. Res. Local Service Bill	\$30.00	\$36.75	FCC Ref. Book of Rates, Prices, Indices, etc. Table 2.6, 2003 results
High Use Res. Local Bill	\$60.00	\$73.50	Assumes 2 Lines
Avg. Res. Long Distance Bill	\$30.00	\$10.16	FCC Ref. Book of Rates, Prices, Indices, etc. Table 2.6, 2003 results
High Use. Res. LD Bill	\$60.00	\$15.00	Going rate for unlimited interstate toll package from RBOC
Avg. Res. Wireless Bill	\$30.00	\$61.66	FCC Ref. Book of Rates, Prices, Indices, etc. Table 2.6, 2003 results
High Use Res. Wireless Bill	\$60.00	\$120.00	Price of a "Family Share" Plan with 800 minutes and Four Phones – Verizon Wireless
High Use Res. Wireless Connections	1	4	See above



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Table 4: Revised modeling: 2005 contributions using revised usage and fund size assumptions. A 100% numbers based assessment plan would require a lower residential contribution than the WVCA 50/50 plan.

Usage Scenario	2005 100% Revenue Estimate	2005 50/50 Estimate	2005 Numbers-based plan
Scenario 1: Average	\$3.61	\$2.89	\$2.20
Scenario 2: Low Use	\$1.07	\$1.09	\$1.10
Scenario 3: High Use	\$5.91	\$5.67	\$5.50
Scenario 4: High Local	\$3.53	\$3.43	\$3.30

Source: Modeled using assumptions above. See Table 5 following for more detailed results.

Table 5: Revised modeling segment specific results: 2005 contributions using revised usage and fund size assumptions.

Scenario 1						
Service	Monthly Bill	USF 10.7% Interstate	50% / 50% Plan			Numbers Plan
			50% Revs Interstate	50% Numbers	Total 50% / 50%	
Local	\$36.75	\$0.64	\$0.32	\$0.55	\$0.87	\$1.10
Long Distance	\$10.17	\$1.09	\$0.54	\$0.00	\$0.54	\$0.00
Wireless	\$61.67	\$1.88	\$0.92	\$0.55	\$1.47	\$1.10
TOTAL	\$108.58	\$3.61	\$1.79	\$1.10	\$2.89	\$2.20

Scenario 2						
Service	Monthly Bill	USF 10.7% Interstate	50% / 50% Plan			Numbers Plan
			50% Revs Interstate	50% Numbers	Total 50% / 50%	
Local	\$36.75	\$0.64	\$0.32	\$0.55	\$0.87	\$1.10

Long						
Distance	\$4.00	\$0.43	\$0.21	\$0.00	\$0.21	\$0.00
Wireless	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL	\$40.75	\$1.07	\$0.54	\$0.55	\$1.09	\$1.10

Scenario 3						
		50% / 50% Plan				
		USF 10.7%	50% Revs	50%	Total	Numbers
Service	Monthly Bill	Interstate	Interstate	Numbers	50% / 50%	Plan
Local	\$36.75	\$0.64	\$0.32	\$0.55	\$0.87	\$1.10
Long						
Distance	\$15.00	\$1.61	\$0.80	\$0.00	\$0.80	\$0.00
Wireless	\$120.00	\$3.66	\$1.80	\$2.20	\$4.00	\$4.40
TOTAL	\$171.75	\$5.91	\$2.92	\$2.75	\$5.67	\$5.50

Scenario 4						
		50% / 50% Plan				
		USF 10.7%	50% Revs	50%	Total	Numbers
Service	Monthly Bill	Interstate	Interstate	Numbers	50% / 50%	Plan
Local	\$73.50	\$1.28	\$0.64	\$1.10	\$1.74	\$2.20
Long						
Distance	\$4.00	\$0.43	\$0.21	\$0.00	\$0.21	\$0.00
Wireless	\$61.67	\$1.88	\$0.92	\$0.55	\$1.47	\$1.10
TOTAL	\$139.17	\$3.59	\$1.78	\$1.65	\$3.43	\$3.30

As demonstrated above, residential consumers of telecommunications services will *not* be economically better off under the WVCA proposal. Moreover, all consumers, large and small, would face at least two universal service charges on their wireline service bill, and revenue-based charges will continue to spiral upward. While accomplishing nothing of value if it were to implement a WVCA-type USF assessment methodology, the Commission should expect significant consumer backlash to if it were to implement WVCA-type plan, and be prepared to revisit the very issues before it in this proceeding.

Significantly, the WVCA does not address the treatment of low-income subscribers, *i.e.*, those subscribers who qualify for Lifeline assistance, under its proposal. Nor does it even try to establish that its plan better promotes affordable telephone service than Ad Hoc's assigned working telephone number proposal. Under Ad Hoc's proposal to use assigned working telephones as the basis for USF assessments, Lifeline subscribers would be exempt from USF payments. There is nothing in the WVCA plan suggesting that Lifeline Subscribers would be exempt under the WVCA proposal. In fact, low income subscribers would be worse off under the WVCA plan than under Ad Hoc's assigned working number assessment proposal. Certainly, the WVCA cannot credibly argue that a numbers-based assessment methodology, a methodology that would produce an initial assessment of about \$1.00 per month would cause telephone service to become unaffordable for consumers who do not qualify for Lifeline service, particularly given that these subscribers already are paying USF assessments based on interstate charges, which include the unavoidable subscriber line charge. Indeed, unrefuted evidence in the record establishes that given an elasticity of local telephone service demand of approximately -0.005 , there will be no perceptible decline in local telephone service subscribership levels as a result of a numbers-based USF assessment.⁴ The Commission would act arbitrarily and capriciously if it were to use affordability as a reason for adopting the WVCA proposal.

Finally Ad Hoc must respond to WVCA's contention that the 50/50 proposal would be superior to Ad Hoc's numbers-based plan because it "[w]ould spread USF responsibility among industry segments approximately the same as use of total revenues."⁵ First, maintaining the existing revenue spread is not a valid policy goal. Second, given that the Local Exchange Carriers (LECs) own the wireless carriers, provide long distance service and are in the process of acquiring the major long distance carriers, the spread of revenue responsibility between LECs, wireless providers and long distance carriers is irrelevant. Third, USF contribution spread among carriers has been evolving and changing since the beginning of USF contribution assessments. There is no good reason for the Commission to try to make the contribution obligation spread constant going forward.

⁴ Ad Hoc Telecommunications Users Committee, Comments, CC Docket No. 96-45, at 14-16, filed February 28, 2003, citing Jerry Hausman and Howard Shelanski, *Economic Welfare and Telecommunications Regulation: The E-Rate Policy for Telecommunications Subsidies*, 16 Yale J. on Reg. 19, *38 n.85 (1999).

⁵ WVCA *Ex Parte*, page 1 of attachment.

Table 6: USF-responsibility by industry segment has not remained constant over time.

Industry Segment	1997 segment percentages	2003 segment percentages
IXC	82%	51%
LEC	15%	27%
CMRS	3%	22%

Source: FCC Trends in Communication, Table 19.15, released May 2004.

But most importantly, the WVCA 50/50 proposal would not maintain the existing USF contribution spread responsibility.

Table 7: The WVCA 50/50 proposal would not maintain USF-contribution responsibility by industry segment.

Industry Segment	2004 estimate based upon 100% revenue-based assessment	2004 estimate based upon 50/50 plan assessment	Change
IXC	46%	31%	-33%
LEC	27%	43%	+60%
CMRS	27%	26%	-3%

Source: 100% revenue based assessment taken from FCC 2004 estimate, FCC Trends in Communication, Table 19.15, released May 2004. 50/50 estimate for 2004 taken from WVCA *Ex Parte*.

The Keep USF Fair Coalition Proposal

The Coalition proposes a USF assessment methodology that would continue to assess contribution obligations based on interstate telecommunications revenues, subject to a cap of between 12% - 15%. If the USF funding obligation could not be satisfied under the capped revenue-based assessments, only then would the residual funding requirement be recovered through numbers-based assessments.

USF funding instability would be even more of a problem under the Coalition proposal than under the WVCA suggestion for all of the reasons discussed in Ad Hoc's response to the WVCA plan. Indeed, the Coalition



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proposal would increase the incentives for enterprise customers and all customers to seek packages and services that minimize or avoid up to a 15% additional charge. The Coalition asserts at page 8 of its January 31, 2005 *Ex Parte* that its proposal would benefit consumers who do make no or only a few calls per month and "who are least able to afford the additional cost." Although that assertion might be technically true, it would be true only for an extremely small number of residential subscribers. Given that the average residential interstate subscriber line charge ("SLC") is \$6.00 per month, the revenue-based surcharge on the SLC alone would be \$0.90 per month, assuming a surcharge capped at 15%. For all other consumers, they are likely to be worse off under the Coalition proposal than they would be if they paid USF charges based on assigned working telephone numbers.

Finally, the Coalition urges the Commission to, "[e]xpand the USF contribution base to include all revenues derived from telecommunications, including services provided using Voice over the Internet Protocol (VoIP) technology."⁶ This sweeping proposal raises many significant questions. Would the Coalition subject *all* VoIP providers to USF assessments? For example, would cable telephony providers pay USF assessments for the first time? Would VoIP providers such as Vonage, Skype and pulver.com bear USF contribution burdens? These are among the issues being considered by the Commission in the IP-Enabled Services rulemaking.⁷

⁶ *Ex Parte* Submission of the Coalition in CC Dkt. No. 96-45 at 7 (filed Jan. 31, 2005).

⁷ *IP-Enabled Services*, WC Dkt. No. 04-36, Notice of Proposed Rulemaking, FCC No. 04-28, released Mar. 10, 2004.



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CONCLUSION

Neither the WVCA nor the Coalition proposal addresses the funding instability inherent in a USF contribution assessment that completely, or in part, is based on interstate telecommunications revenues; and neither proposal would produce net benefits for the public interest. Accordingly, the Commission should reject both proposals.

Sincerely,

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